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SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

1981 session

SUMMARY RECORD OF THE 54th MEETING

Held at Headquarters, New York,
on Wednesday, 11 March 1981, at 4 p.m.

Chairman: Mr. GONZALEZ GALVEZ (Mexico)

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The meeting was called to order at 5.20 p.m.

ORGANIZATION OF WORK

1. The CHAIRMAN said that, if there were no objections from the floor, the Observers for Chile and Peru would be allowed to make a statement.

2. Mr. DIEZ (Observer for Chile) said that his delegation had been following the work of the Committee with increasing interest, and stressed Chile's commitment to the purposes and principles of the Organization. His delegation had carefully studied the informal compendium of proposals before the Committee on the maintenance of international peace and security, and felt that they should be analysed as a whole and individually to determine which ones would be most conducive to the achievement of the objectives of the Charter. Chile had stated that it was in favour of the elaboration of a draft declaration on the peaceful settlement of disputes in response to General Assembly resolution 34/102. It had also participated in the Working Group on the Peaceful Settlement of Disputes and co-sponsored General Assembly resolution 35/160 on the subject. His delegation would like to see an international instrument containing norms for codification and development of procedures for the peaceful settlement of disputes, a principle of jus cogens the infringement of which was internationally unlawful and gave rise to international responsibility. Not only should the principle itself be safeguarded, as well as the means of implementation afforded by international law, but the parties to a potential conflict should be protected from any outside interference which could serve as an additional source of discord and make agreement more difficult to reach. Moreover, the States involved should refrain from any action which might predispose the general public to oppose the solution of a problem by peaceful means.

3. Not only was it essential to use procedures for the peaceful settlement of disputes in good faith but there must also be a pre-existing political and moral will on the part of States to commit themselves to the peace-making process and eliminate all obstacles in its way. And, once agreement was reached on the peaceful means to be applied by agreement the application of the agreed means should be scrupulously effected so that the advantages deriving from them would be permanent. The peaceful settlement of a dispute was not an isolated action confined to a single moment in time but covered an entire period and involved a position of principle which encompassed the genesis of the problem, its solution and the subsequent consolidation of the settlement. The Charter and many universally accepted international instruments embodied those basic principles. However, tensions persisted in various parts of the world, and the Organization should strengthen the system for the peaceful settlement of disputes in the light of current requirements and the complexity of contemporary international relations. Chile pledged its best efforts to that task and was ready to co-operate in the important work of the Committee to the best of its ability.

4. Mr. CALLE (Observer for Peru) said that the questions of the maintenance of international peace and security and the peaceful settlement of disputes were matters that needed to be studied more carefully than ever at the present time with a view to

(Mr. Calle, Observer, Peru)

finding solutions which, while strictly compatible with the principles of the Charter, would make for further conceptual development. No peace-loving State could remain indifferent to, or aloof from that great task but all must work together to find norms and mechanisms to solve the complex problems of the contemporary world. Peru pledged its co-operation in that effort, and for that reason had asked to be admitted as an observer. The work of the Committee fell within a clearly defined framework, informed by the precepts of the Charter. It was thus quite clear that the conceptual development of the principles of the Charter required recognition of all the norms of international coexistence which, in accordance with international law, were the corner-stone of modern international relations. Respect for commitments entered into by States the faithful fulfilment of international obligations, and the pledge to live in peace with other States in accordance with the Charter and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, were all hallowed principles which should be given particular attention in the important work of the Committee. His delegation hoped that the Committee would make real progress in the difficult but not impossible task entrusted to it at its current session.

5. Mr. SUY (Under-Secretary-General, The Legal Counsel) wished to clarify some points, that appeared to be unclear, on the subject of the Repertory of Practice of United Nations Organs.

6. The first substantive step in preparing a new Supplement was the drafting of studies on the 111 Articles of the Charter. That task was assigned in each case to the Secretariat unit most closely concerned with the Charter Article in question. Conforming to the present structure of the Secretariat, the 121 studies were assigned to 10 separate departments. When completed, each draft study was submitted to the Office of Legal Affairs for a preliminary review, which generally resulted in a request to the originating unit to revise its draft, a process which might have to be repeated several times. It was then reviewed by the Review Committee, whose review might result in the immediate clearance of the study or its return for further revision. After clearance by the Review Committee, each study was submitted to a special editorial unit, operating under the joint supervision of the Office of Legal Affairs and the Department of Conference Services. As soon as enough studies to constitute a complete volume had been edited, they were submitted to the Publishing Division. After a volume had been published in English, it was again submitted to the Publishing Division for translation into and publishing in French and Spanish. Once sufficient Supplements had been published to justify the preparation of a new Index, the task was undertaken by the Indexing Section of the Dag Hammarskjöld Library. The preparation of each of those massive compendia also required extensive administration and co-ordination, a task which had, in spite of its essentially non-legal nature, historically fallen to the Office of Legal Affairs. Thrcugh the early 1970s, the Office of Legal Affairs had received considerable support in the administrative work from a special small editorial unit financed by the Department of Conference Services; with the completion of Supplement No. 3, however, the general financial stringency prevailing in the Organization had necessitated the discontinuation of that unit.

(Mr. Suy)

7. In 1971, a special post of Repertory Officer had been added to the General Legal Division of the Office of Legal Affairs, in response to an original request for two such posts. Previously, the Office of Legal Affairs had relied extensively on consultants, but starting in the 1970s the availability of funds for consultants had been much reduced by the General Assembly, and that source of assistance was no longer available.

8. Although the exigencies of the ever-increasing amount of work assigned to the Office of Legal Affairs had made it generally impractical for the Office to assign one official permanently and on a full-time basis to Repertory work, it could easily be shown that the work performed by numerous legal officers on the Repertory far exceeded the capacities of one senior official. The Office had repeatedly asked either that the task of administering the preparation of the Repertory should be transferred to some other unit or that an additional administrative post should be assigned to the Office. However, those requests had always been turned down, generally on the grounds that a post for a Repertory Officer had been created in 1971. The negative decisions had unfortunately taken no account of the fact that the single post had already been insufficient when initially established, and that the increasing pressure of legal work in the Office had made it increasingly impractical to assign a legal officer to perform the extensive non-legal work associated with the production of the Repertory.

9. That the Repertory operation was residual, and was generally carried out with resources available after more urgent tasks had been accomplished, was the result not of a deliberate decision but of necessity. Almost all the work of the Office of Legal Affairs was of a current nature, and very little of it was devoted to long-range projects whose timing could be subordinated to work on the Repertory. If the General Assembly felt a greater sense of urgency about the Repertory - which would certainly require a strong recommendation from a deliberative body such as the Committee - and provided the additional posts needed, then a greater currency in the production of the Repertory could be foreseen. If States felt an urgent need for the up-to-date production of the Repertory, the resources must be made available to both the Office of Legal Affairs and the other departments concerned. The suggestion that all language versions of the Repertory should be prepared simultaneously was not a practical one, since simultaneous preparation would require extensive duplication of work and would not result in comparable versions. It had been suggested that, since large parts of the Repertory reproduced documents that had already been translated, the task of preparing the several language versions should be easier. However, the task was very complex when, for instance, a single sentence might contain quotations from several resolutions and its translation required that each of the resolutions should be located and the fragments correctly assembled to make a grammatical sentence in another language. It was also difficult to contract out the translation, since whoever undertook the task must have ready access to the full range of documentation quoted in the Repertory. Finally, it was largely a question of finances and of finding qualified translators to produce the Repertory in some or all of the other working languages of the General Assembly. Account would have to be taken, in planning any such project, of the need to translate all of the existing 14 basic volumes, three supplements and two indexes, containing well over 6,000 pages of text.

10. Mr. ROSENSTOCK (United States of America) said that his delegation hoped that the Secretariat would find, within its existing resources, the capacity to continue the functions of a co-ordinator, since it was in the nature of residual activities that a co-ordinator was essential if the work was to be done.

11. Mr. BROMS (Finland) said that, since the basic work on the Repertory covering the period up to 31 August 1954 had been done quickly, it might be useful to look back and see how many people had been needed at that time to do the work. He also referred to General Assembly resolution 2968 (XXVII) on the need to consider suggestions concerning the review of the Charter of the United Nations, in which the Secretary-General had been requested to bring up to date as quickly as possible the Repertory of Practice of United Nations Organs. He agreed with the United States representative that a co-ordinator was needed . In addition, his delegation felt that the project would not be a waste of money, since all major libraries, law schools and law offices would want copies of the volumes. The Office of Legal Affairs should therefore be given financial help.

12. Mr. ECONOMIDES (Greece) felt that the report of the Special Committee should contain a special paragraph dealing with the Repertory, and that the matter should be given priority.

13. Mr. CHATURVEDI (India) said that his delegation also felt that the Repertory should be published and updated. The document would be useful for the Foreign Offices of many countries and for international scholars.

14. Mr. OUYANG Chuping (China) said that his delegation shared the concern expressed by other delegations regarding the publication of the Repertory. That document served a useful purpose and would be needed by many libraries and legal offices, and his delegation hoped that the Secretariat could accelerate the work that was being done on it. He took note of the Under-Secretary-General's comments on publication of the work in foreign languages, but expressed the hope that a Chinese version would nevertheless become available.

15. Mr. TEKAIA (Tunisia) recalled the proposal his delegation had made at Manila regarding the use of computers in the work of compiling resolutions for the Repertory.

16. Mr. ELARABY (Egypt) said that his delegation hoped that everything possible would be done to provide an updated version of the Repertory. That would require the provision of technological and financial resources and the creation of a special unit.

17. Mr. KOROMA (Sierra Leone) said that his delegation attached particular importance to the publication of the Repertory, and would accordingly support any effort to obtain increased resources for that purpose. He noted that a manual for the preparation of the Repertory had been issued and given due publicity, but he hoped that the matter would receive increased attention in the future.

18. Mr. OSAH (Nigeria) said that it was clear from the Under-Secretary-General's remarks that the General Assembly attached great importance to the Repertory, and his delegation hoped that the Secretariat would find a co-ordinator for it so as to ensure that the work was expedited.

19. Mr. ANDERSON (United Kingdom) said that his delegation was grateful for the statement made by the Under-Secretary-General. Although it had gained a fuller appreciation of the Secretariat's problems in connexion with the Repertory, it hoped that the document would continue to be published.

20. Mr. ZEHENTNER (Federal Republic of Germany) said that his delegation supported the proposal made by the representative of Greece. The Special Committee's report should contain a paragraph expressing concern over the matter.

21. Mr. SUY (Under-Secretary-General, The Legal Counsel) said that in the 1950s, the Repertory had been produced as a result of heroic efforts by the Secretariat and outside consultants. As he had mentioned in his statement, the situation had changed, and all those resources were no longer readily available. He had taken note of the discussion regarding a co-ordinator for the Repertory, and the Office of Legal Affairs would continue to try to find resources for that purpose. He hoped that the Fifth Committee would be as enthusiastic about the project as the Special Committee was.

22. In response to the Egyptian delegation's question regarding cases when the Security Council had passed resolutions referring expressly to Chapter VII of the Charter, he said the information he had received from the Department of Political and Security Council Affairs indicated that it had done so in three cases. Firstly, in connexion with the question of Palestine, in resolutions 54 and 62 (1948); secondly, in the numerous resolutions adopted from 1966 to 1979 on the situation in Southern Rhodesia; and finally, in resolutions 418 and 421 (1977) concerning the question of South Africa. Other Security Council resolutions did not mention Chapter VII specifically, but clearly derived from Article 39, such as the Complaint of aggression upon the Republic of Korea in resolutions 82 through 84 (1950) and resolution 146 (1960) on the Congo question.

23. Mr. ELARABY (Egypt) said that the authoritative statement by the Under-Secretary-General showed how over the past 30 years, the Security Council had failed to take action under Chapter VII. Of the three problems which had been cited as subjects of Security Council resolutions, two persisted and the third had been resolved outside the United Nations. When the Security Council failed repeatedly to take effective action under Chapter VII, and to discharge its responsibility to remove threats to international peace and security, it gave serious cause for concern, and the reasons for that failure should be examined. His delegation therefore hoped that the Special Committee would make a definitive and clear statement to the General Assembly on the reasons why the system had failed.

24. Mr. KOROMA (Sierra Leone) said that the information given by the Under-Secretary-General was extremely important in the light of South Africa's present activities. In having railroaded the talks in Geneva on independence for Namibia, and in carrying out daily acts of aggression against Angola, Mozambique and Zambia, South Africa was flouting the authority of the Security Council, yet that body was afraid even to meet in order to take action.

25. Mr. FEDOROV (Union of Soviet Socialist Republics) said that, in addition to the Security Council resolutions with direct references to Chapter VII, mentioned by the Under-Secretary-General, there were many other Security Council resolutions which were clearly in the same category, although they did not refer to Chapter VII directly such as the Security Council resolutions adopted in 1956 and 1973. His delegation did not feel that it should be concluded, however, that the Security Council had been totally ineffective. In particular, the resolutions on a cease-fire had served to defuse confrontations in many cases.

The meeting rose at 6.20 p.m.